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SUBJECT: 2007: DISPUTED ELECTION RESULTS MAY BE A QUAGMIRE

Classified By: Political Counselor Russell J. Hanks for Reasons 1.4 (b and d)

11. (U) SUMMARY: Beyond simply holding elections in 2007, Nigeria has to work hard to make sure any disputes over election results are effectively resolved. IFES, an international democracy building NGO, conducted a series of 3 seminars in Abuja focusing on electoral dispute resolution machinery. The April 26 meeting covered Enforcing Electoral Judgments, the May 23 meeting discussed Security and Electoral Litigation, and the meeting June 22 discussed Bribery, Corruption, and the Electoral Appeals Process. A broad spectrum of government and civil society leaders participated. The conference series drew attention to the need for deep structural reforms and a reinforced political will to ensure election results in 2007 viewed as legitimate by Nigerians. END SUMMARY.

12. (U) The April 26 meeting on Enforcing Electoral Judgments pointed out a potential problem in Nigerian law. Election tribunals have been set up to hear disputes in non-presidential elections (presidential disputes are heard by the Court of Appeal under the 2006 Electoral Act), but they are not legal courts of record with the power to enforce decisions. The recently passed 2006 Electoral Act does not appear to give the tribunals any new powers, and it is unclear how the Court of Appeal would enforce any judgment about a contested presidential election result. Additionally, even hearing the cases could be difficult. In 2003, little physical security existed for tribunals hearing electoral disputes and this physical insecurity sometimes prevented them from doing their work. A representative for the federal attorney general laid this at the feet of "area boys" and "miscreants," and a legal practitioner involved in challenging the 2003 election results said that witnesses were attacked and lawyers working in the electoral tribunals disguised themselves to ward off attacks. Physical insecurity may also leave election workers more open to corruption, the topic of the conference on June 22. During that conference, nobody in the room disputed the notion that corruption is a striking problem in resolving electoral disputes. In the recent controversy over a possible third term for President Obasanjo, countless witnesses described money changing hands in order to influence the political process in Nigeria. Even if the corruption is overstated, public perception of its truth will make it difficult to accept any judgments rendered by the electoral tribunals.

13. (C) Media reports indicate other issues that may make it difficult to implement the results of the 2007 elections. The Independent National Electoral Commission (INEC) pointed out various problems, including the fact that electoral challenges will have no time limit. INEC also disputes which government agency should investigate any cases of electoral fraud and how electoral funds should be distributed. Further

complicating matters, INEC stands accused by some of not being a fair judge of electoral results. Anambra State Governor Peter Obi was quoted as saying that electoral problems are the fault of INEC "because of the fraudulent acts committed in their offices after elections like it did in 2003." Other media reports have speculated that President Obasanjo is changing the composition of INEC in order to place officers friendly to him in positions of power. While post can not yet evaluate whether these claims are true, they indicate a lack of trust among the citizens of Nigeria in the political process.

14. (C) COMMENT. Assuming the 2007 elections take place as scheduled, Nigeria faces a enormous obstacles to producing results recognized throughout the country. The very fact that civil society feels it necessary to discuss topics related to enforcing electoral judgments rendered by competent authorities reflects a lack of confidence by the polity. As the coordinator of an NGO involved in disputing the 2003 election results told PolOff, there is a cultural belief that electoral losers have not lost a fair fight. The elections in 2007 are likely to bring this issue into even sharper focus because in 2003 Obasanjo ran as an incumbent. The situation in 2007 will be much more fluid. This "no fair fight" belief causes electoral losers to almost reflexively challenge the results, and the institutions are not sufficient to handle the claims which arise. Simply having elections in 2007 may not be enough. Even in the best case scenario where elections happen with actors of good will, the legal mechanism set up to implement the results by resolving disputes has no power. If the elections are not accepted as legitimate, the instability witnessed in Nigeria over the past four years is likely to continue. END COMMENT.  
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